



CITY OF DULUTH

Planning Division

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STAFF REPORT

File Number	PL 14-025		Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Variance		Planning Commission Date	4/8/14	
Deadline for Action	Application Date	3/17/14	60 Days	5/6/14	
	Date Extension Letter Mailed	3/20/14	120 Days	7/15/14	
Location of Subject	210 W. Michigan St.				
Applicant	Duluth Transit Authority		Contact	jheilig@duluthtransit.com	
Agent	Jim Heilig		Contact	623-4316; jheilig@duluthtransit.com	
Legal Description	Block 10 lot 1 Duluth Central Division				
Site Visit Date	3/21/14		Sign Notice Date	3/24/14	
Neighbor Letter Date	3/24/14		Number of Letters Sent	20	

Proposal

The DTA is requesting to add a frosted Mylar film along west side of the Wells Fargo skywalk over Michigan Street to deter loitering while waiting for buses to arrive. This variance request would reduce the transparency along the west side to 0%.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Central Business Primary
North	F-8	Commercial	Central Business Primary
South	MU-C	Freeway	Transportation and Utilities
East	MU-C	Commercial	Central Business Primary
West	MU-C	Commercial/Residential	Central Business Primary

Summary of Code Requirements (reference section with a brief description):

50-23.6 - Skywalks: (A) The location and design ... should not compromise the historic or architectural integrity of existing buildings; (B) Design of skywalks shall be ... based on their architectural sensitivity, harmony, and cohesiveness with the historic/ industrial waterfront character ... (C) New skywalks and existing skywalks remodeled at a cost of more than 50% ... shall be designed so that 66% of each vertical side ... is made of glass or transparent materials.

50-37.9.C. - General Variance Criteria (paraphrased here): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Principle #7 - Create and maintain connectivity

Future Land Use - Central Business Primary: Encompasses a broad range of uses and intensities, including significant retail, entertainment, high-density housing, public spaces, public parking facilities. Protection of historic buildings, form-based guidelines, pedestrian-oriented design.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1.) Variance request is for an existing sidewalk that spans Michigan Street, between Wells Fargo and the proposed transit facility site. The existing structure face is 36% transparent.
- 2.) Skywalks in the City function to provide sheltered connectivity between buildings, above the street level. The UDC regulations pertaining to skywalks are intended to: minimize structures that may visually detract from the historic, architectural, and scenic characteristics of the surrounding area; aide users in wayfinding (seeing through windows can orient users to which street they are crossing and where they need to go); and enhance safety within the skywalk as well as on the street by allowing pedestrians in both places to see activity around them, and to be seen.
- 3.) A skywalk is a reasonable use in this zone district and a reasonable use adjacent to a transit facility. However, Staff finds that proposing to have a skywalk over a public right of way with 0% transparency along one side of the structure is not a reasonable use and is against the intent of the skywalk provisions.
- 4.) Need for relief is not unique to this property. There are skywalks near bus stops along Superior Street and throughout downtown. If loiterers are determined to be a hardship, this is a standard that could be employed throughout downtown, undermining the goal of transparent skywalks.
- 5.) The need for relief has been caused by the landowner. In designing the transit facility with a staircase directly at the end of the skywalk, they have increased the likelihood that people might wait in the skywalk while watching for buses.
- 6.) Transit facility will be equipped with reader boards notifying passengers of bus arrivals, minimizing the need for people to watch from the skywalk.
- 7.) Proposed reduction is not due to engineering or structural difficulties.
- 8.) Granting the variance will alter the essential character of the area by creating a skywalk that the public cannot see through. In addition, other property owners downtown may see this variance as establishing a precedent for other skywalks.
- 9.) Granting the variance causes safety concerns when pedestrians cannot see other pedestrians in the skywalk and on the street. Because Michigan Street is a one-way street, drivers on the street will never provide "eyes" into the skywalk.
- 10.) No public, agency, or City comments have been received.
- 11.) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission deny the variance, for the following reasons:

- 1.) In reducing the transparency to 0%, applicant is not proposing to use the skywalk in a reasonable manner.
- 2.) Granting the variance would alter the essential character of the area, as other skywalks downtown have greater transparency.
- 3.) The need for a variance has been created by the landowner and their perception of a risk.
- 4.) Granting the variance is inconsistent with the intent of the UDC and could result in additional requests for similar treatments.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

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Glazing is currently 36% of entire elevation

Existing Sloped Floor

Window Film will cover 100% of glazing area to accommodate sloping floor. Film will be on one side of skywalk only.



Wells Fargo Skywalk

Wells Fargo Skywalk Window Film – (shown in yellow to indicate 100% on existing glass will be covered. Will be frosted as a “clear color”)